HON'BLE SRI G.S.SINGHVI, THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE R.SUBHASH REDDY

-

WRIT APPEAL NO : 2594 of 2005

Between:

All India Banjara Seva Sangh Mahanagar (AP)

Rep by its President R. Laxman Naik @ R. Laxman
R/o. 8-2-293/82/B/59/A, Gayatri Hills Colony, Yousufuada, Hyderabad and 21 others.

..... APPELLANTS

AND

Government of A.P. Rep by its Principal Secretary,
Revenue and Land Acquisition Department,

Secretariat, Hyderabad and 3 others

.....RESPONDENTS

::JUDGMENT::

Counsel for the Appellant :Mr.Voosa Raghu

Counsel for Respondents 1 to 3 : GP for Land Acquisition

Counsel for Respondent No.4 : Mr.E.Madan Mohan Rao

Dated 02.01.2006

Per G.S.Singhvi, CJ

This is another round of litigation involving challenge to notification dated 4.3.2005

issued by District Collector,
Ranga Reddy District (respondent No.2) under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') for acquisition of land for a public purpose viz., establishment of
IT park and allied projects by A.P. Industrial Infrastructure Corporation (respondent No.4).

It is not in dispute that W.P.No.19539 of 2002 and other connected writ petitions filed by the land owners and others questioning the acquisition of the land for establishment of IT park by respondent No.4 were dismissed by the learned Single Judge and W.A.Nos.294, 1139, 1142 and 1150 of 2005 filed against the orders of the learned Single Judge were dismissed by the Division Bench on 7.10.2005.

In the writ petition filed by them, the appellants challenged notification dated 4.3.2005 on the grounds already taken in Writ Petition No.19539 of 2002 and connected matters and also on the ground that the land belonging to the members of Scheduled Tribe cannot be acquired without consulting the National Commission for Scheduled Castes and Scheduled Tribes (for short 'the Commission'). The appellants averred that the members of appellant No.1 and others were Scheduled Tribes and their land could not have been acquired without approval of the Commission.

The learned Single Judge rejected the additional ground of challenge by observing that the acquisition of land belonging to the members of Scheduled Castes and Scheduled Tribes does not constitute a 'major policy decision' within the contemplation of clause (9) of Article 338-A and, therefore, the failure of the official respondents to consult the Commission did not have the effect of vitiating the acquisition proceedings.

Learned counsel for the appellants reiterated the plea raised by his clients before the learned Single Judge and submitted that they are entitled to protection against acquisition of the land, which could be made by the competent authority, only after consulting the Commission. Learned counsel submitted that every acquisition of land belonging to Scheduled Tribes attracts the provisions of Article 338-A (9) of the Constitution of India. He pointed out that the Commission had asked for information from the Collector, but the latter did not send the relevant information and, in this manner, the Commission was deprived of its legitimate right to scrutinize the

justification of the proposed acquisition.

Learned Government Pleader supported the judgment of the learned Single Judge and argued that the acquisition of Ac.38.26 guntas of land belonging to 25 members of Scheduled Tribes out of the total acquisition of Ac.400.00 did not attract the provisions of Article 338-A (9) and no illegality was committed by the respondents by finalizing the acquisition proceedings without consulting the Commission.

We have considered the respective submissions and carefully perused the record.

In the affidavit filed in support of the writ petition
Sri R. Laxman Naik, claiming himself to be the President of appellant No.1 averred that about Ac.100.01 gunta of land belonging to the members of Scheduled Tribes is sought to be acquired for the purpose of establishment of IT park. In the counter affidavit filed by Sri S. Prabhaker Reddy, Special Deputy Collector (Land Acquisition), International Airport at Shamshabad, it was averred that out of the total acquisition, only Ac.38.26 guntas of land belongs to the members of Scheduled Tribes, numbering 25. The appellants neither filed rejoinder affidavit to controvert the assertion contained in the affidavit of Sri S. Prabhaker Reddy nor did they place any other material on record to show that Ac.100.01 gunta of land out of Ac.400.00 sought to be acquired by the State Government for establishing IT park belongs to the members of Scheduled Tribe. It is, therefore, not possible to accept the plea of the appellant that 100 acres of land belonging to the members of Scheduled Tribes is being acquired.

That apart, we are in complete agreement with the learned Single Judge that acquisition of land under the Act cannot be made subject to the approval of the National Commission merely because a parcel of the land sought to be acquired belongs to the members of the Scheduled Tribes. In our opinion, the acquisition of land does not involve a ‘major policy decision’ concerning the members of the Scheduled Tribes and therefore the provisions of Article 338-A (9) are not attracted in such proceedings.

No other point has been argued.

For the reasons mentioned above, the appeal is dismissed.

G.S. SINGHVI, CJ

2nd January, 2005

R. SUBHASH REDDY, J

msv/vtv/svs